



# UNITED STATES PATENT AND TRADEMARK OFFICE

HD

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/711,511

11/14/2000

David K. Gifford

06543-002006

8013

24573 7590 04/23/2007  
BELL, BOYD & LLOYD, LLP  
P.O. Box 1135  
CHICAGO, IL 60690

EXAMINER

MEINECKE DIAZ, SUSANNA M

ART UNIT

PAPER NUMBER

3694

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
--	-----------	---------------

2 MONTHS

04/23/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

---

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

**MAILED**

Application Number: 09/711,511  
Filing Date: November 14, 2000  
Appellant(s): GIFFORD, DAVID K.

APR 23 2007

**GROUP 3600**

Peter Zura (Reg. No. 48,196)  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed January 29, 2007 appealing from the Office action mailed June 22, 2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

5,475,585

BUSH

12-1995

"ALANTEC: ALANTEC Delivers Another Industry First; IP Multicast Routing Support for Desktop Video Conferencing and Broadcast Video." August 16, 1993.

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-4 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bush (U.S. Patent No. 5,475,585) in view of "ALANTEC: ALANTEC Delivers Another Industry First; IP Multicast Routing Support for Desktop Video Conferencing and Broadcast Video," herein referred to as ALANTEC.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bush (U.S. Patent No. 5,475,585) in view of "ALANTEC: ALANTEC Delivers Another Industry First; IP Multicast Routing Support for Desktop Video Conferencing and Broadcast Video," herein referred to as ALANTEC.

Bush discloses a network sales system comprising:

[Claim 1] a plurality of buyer computers and at least one merchant computer interconnected by a communications network (col. 1, lines 8-27, 56-59 -- Bush's invention is targeted to customers of cable TV, thereby implying that multiple cable customers may access Bush's service via cable transmission; Fig. 1A),

means at each merchant computer for maintaining and providing a database of digital advertisements (Fig. 1A; col. 3, lines 1-20; col. 5, lines 10-19) comprising:

means for storing said digital advertisements, each digital advertisement including a product abstract (Figs. 1A-5, 8; col. 3, lines 52-54; col. 8, lines 3-8 -- The electronically communicated and displayed menu of various artists performing in a selected location is indicative of a database of digital advertisements with corresponding instructions that are programmed to cause the advertisements to be displayed. Also, a brief description, i.e., an abstract, of various products and services may be advertised to a customer),

means for communicating a digital advertisement to a buyer computer over said network in response to a network request from said buyer computer (Figs. 1A-5, 8; col. 3, lines 1-20; col. 8, lines 3-8),

means at each buyer computer for requesting, displaying, and responding to digital advertisements (Figs. 1A-5, 8; col. 3, lines 1-20; col. 8, lines 3-8) comprising:

means responsive to a user inquiry for selecting a merchant computer and obtaining a digital advertisement for a product from said database of advertisements at said merchant computer (Figs. 1A-5, 8; col. 3, lines 1-20; col. 4, line 67 through col. 5, line 23; col. 8, lines 3-8),

display means for displaying said advertisement (col. 3, lines 1-20; col. 8, lines 3-16),

purchase means responsive to a user request for communicating a purchase message to said merchant computer (Figs. 1A-5, 8; col. 3, lines 50-54; col. 4, line 67 through col. 5, line 23; col. 8, lines 3-16),

Art Unit: 3694

account identification means to authorize said purchase message by sending messages into a financial system network (Fig. 1A; col. 3, line 21 through col. 4, line 10; col. 6, lines 46-48),

means, at said merchant computer, comprising:

authorization means to authorize said purchase message by sending messages into a financial system network (Fig. 1A; col. 3, line 21 through col. 4, line 10; col. 4, line 67 through col. 5, line 23; col. 6, lines 46-48 -- In one scenario, the merchant computer must submit transaction information to the financial system network in order to provide a cross-check before the financial transaction is verified, as explained in detail in col. 3, line 60 through col. 4, line 10),

fulfillment means to send said product to user conditional on approval of said authorization means (Fig. 1A; col. 3, line 21 through col. 4, line 10; col. 6, lines 46-48; col. 8, lines 13-16, 30-42 -- Ordered tickets or software are delivered to the user after processing payment);

[Claim 3] wherein said account identification means comprises:

means for assembling a payment order (Fig. 1A; col. 3, line 21 through col. 4, line 10; col. 6, lines 46-48),

means for sending said payment order to a network payment system for authorization (Fig. 1A; col. 3, line 21 through col. 4, line 10; col. 6, lines 46-48),

and wherein said authorization means comprises:

means for verifying that said payment order has been previously authorized by said payment system (Fig. 1A; col. 3, line 21 through col. 4, line 10; col. 6, lines 46-48).

Regarding claim 1, Bush transmits video (including related advertisements) over a packet-switched network (abstract; col. 5, lines 7-9; col. 6, lines 4-9; and col. 10, lines 58-64), yet Bush does not expressly teach that the digital advertisements are communicated to a buyer over the network using Internet transfer protocols. However, ALANTEC discloses the use of IP (Internet protocol) multicast routing to distribute television and video (ALANTEC: ¶ 2). IP multicast routing is used to "build high-performance, low-cost networks" (ALANTEC: ¶ 4) and provide the further benefit of enabling one-to-many communications "without broadcasting the packet to every network device and degrading the performance of the entire network" (ALANTEC: ¶ 6). ALANTEC provides a benefit that is reasonably pertinent to Bush's type of video distribution system. Furthermore, the Internet is a type of packet-switched network and Bush's communications may be conducted over a packet-switched network. Consequently, Bush's system is fully adaptable to functioning over the Internet; therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Bush to expressly communicate its digital advertisements to buyers over an network using Internet transfer protocols in order to upgrade Bush's network with "high-performance, low-cost networks" (as suggested by ALANTEC: ¶ 4) and provide the further benefit of enabling one-to-many

Art Unit: 3694

communications "without broadcasting the packet to every network device and degrading the performance of the entire network" (also suggested by ALANTEC: ¶ 6).

[Claim 2] Bush discloses an authorization means at the merchant computer (as discussed in the rejection of claim 1 above); however, Bush does not expressly teach the details of what occurs if it is determined that certain payment information is missing. Official Notice is taken that it is old and well-known in the art of financial transactions to request additional information if needed to complete a financial transaction. For example, Bush specifically addresses credit card transactions and it is old and well-known to request additional credit card information when needed. This additional information may include a credit card holder's address, security code, name as exactly printed on the credit card, etc. The request for additional information during a credit card transaction provides added security for the transaction (e.g., verification that the card has not been stolen or is not being used by someone not in possession of the actual card). The limitations of claim 2 are merely directed toward the means for electronically performing such a request for missing information; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Bush's electronic credit card authorization means to incorporate means for communicating a missing payment information request message to said buyer computer to obtain missing payment information, means for receiving said missing payment information from said buyer computer, means for authorizing said purchase message by sending messages into a financial system



network, wherein said account identification means at said buyer computer comprises means responsive to said missing payment information request message to query the user for additional payment information and means to send said additional payment information to said merchant computer in order to facilitate the quick and efficient retrieval of additional information needed to complete a credit card transaction, thereby providing added security for the transaction (e.g., verification that the card has not been stolen or is not being used by someone not in possession of the actual card).

Bush discloses an electronic sales system comprising:

[Claim 4] means for storing a database of digital advertisements, each digital advertisement for a product including a program (Figs. 1A-5, 8; col. 3, lines 1-20; col. 8, lines 3-8 -- The electronically communicated and displayed menu of various artists performing in a selected location is indicative of a database of digital advertisements with corresponding instructions that are programmed to cause the advertisements to be displayed),

means for communicating a digital advertisement to a buyer computer (Figs. 1A-5, 8; col. 3, lines 1-20; col. 8, lines 3-8),

means at said buyer computer for displaying and responding to said digital advertisement (Figs. 1A-5, 8; col. 3, lines 1-20; col. 8, lines 3-8) comprising:

display means for displaying said digital advertisement by executing a portion of said advertisement as a program and performing actions as specified by said program (col. 3, lines 1-10; col. 8, lines 3-16),

purchase means responsive to a user request for communicating a purchase message to a merchant computer (Figs. 1A-5, 8; col. 4, line 67 through col. 5, line 23; col. 8, lines 3-16),

means, at said merchant computer, comprising:

fulfillment means to send said product to said user (col. 3, lines 52-54; col. 8, lines 13-16, 30-42 -- Ordered tickets or software are delivered to the user after processing payment).

Regarding claim 4, Bush transmits video (including related advertisements) over a packet-switched network (abstract; col. 5, lines 7-9; col. 6, lines 4-9; and col. 10, lines 58-64), yet Bush does not expressly teach that the digital advertisements are communicated to a buyer over the network using Internet transfer protocols. However, ALANTEC discloses the use of IP (Internet protocol) multicast routing to distribute television and video (ALANTEC: ¶ 2). IP multicast routing is used to "build high-performance, low-cost networks" (ALANTEC: ¶ 4) and provide the further benefit of enabling one-to-many communications "without broadcasting the packet to every network device and degrading the performance of the entire network" (ALANTEC: ¶ 6). ALANTEC provides a benefit that is reasonably pertinent to Bush's type of video distribution system. Furthermore, the Internet is a type of packet-switched network and Bush's communications may be conducted over a packet-switched network. Consequently, Bush's system is fully adaptable to functioning over the Internet; therefore, the Examiner submits that it would have been obvious to one of ordinary skill

Art Unit: 3694

in the art at the time of Applicant's invention to modify Bush to expressly communicate its digital advertisements to buyers over an network using Internet transfer protocols in order to upgrade Bush's network with "high-performance, low-cost networks" (as suggested by ALANTEC: ¶ 4) and provide the further benefit of enabling one-to-many communications "without broadcasting the packet to every network device and degrading the performance of the entire network" (also suggested by ALANTEC: ¶ 6).

[Claim 23] Claim 23 recites limitations already addressed by the rejection of claim 4 above; therefore, the same rejection applies. Furthermore, it should be noted that Bush's "means for communicating a digital advertisement to a buyer computer" may be packet-switched means. See at least col. 5, lines 7-9; col. 6, lines 4-9; and col. 10, lines 58-64 of Bush.

#### **(10) Response to Argument**

Preliminarily (regarding Official Notice), the Examiner would like to note that Appellant has not "specifically point[ed] out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art" (as set forth in MPEP § 2144.03(C)). Consequently, the statement of Official Notice made in the art rejection has been established as admitted prior art due to Appellant's failure to adequately traverse the Examiner's assertions of Official Notice. It should also be noted that the Official Notice in question has included a real-world example in support of the Official Notice statement in the rejection.

On pages 15-22 of the Appeal Brief, Appellant argues that the art rejection does not address limitations that should be read into the claims from the specification based on an invocation of 35 U.S.C. 112, 6th paragraph. However, Appellant specifically points out, "There is no mention of any kind of network transfer protocols or hypertext conventions of the WWW (i.e., the Internet)." (Page 18 of the Appeal Brief) While the claims are read in light of the specification, not all limitations will be incorporated into the claims from the specification. Regarding means-plus-function language, only the structure needed to perform the recited functionality is read into the claims from the specification. In the instant case, a processor, storage device, and network (as taught by the Bush reference) are needed to perform the recited functionality. The specific network transfer protocols and hypertext conventions of the WWW are not structural limitations *per se* nor does the specification clarify that they are absolutely inherent to the structure corresponding to the recited means-plus-function language. Additionally, the Appellant previously amended the claims to expressly recite that the digital advertisement is communicated to a buyer over the network "using Internet transfer protocols"; therefore, the art rejection expressly addresses this limitation.

The Appellant maps out various means-plus-function limitations to their corresponding description in the specification; however, it is still unclear how much of this corresponding description Appellant desires to be read into the claim language. For example, Appellant begins to map the structural limitations to the invention on page 16 of the Appeal Brief, as follows:

The specification in the present application clearly discloses a packet-switched network (i.e., the Internet)

through which each merchant computer, configured with executable software, communicates a digital advertisement to a buyer computer over the network using Internet transfer protocols in response to a network request. The network sales system of the present application (FIG. 1, 200) is disclosed as a plurality of buyer computers (61, 62), merchant computers (63, 64), and a payment computer (68) interconnected over a network 67, where each merchant computer has a respective digital advertisement database (65) (page 10, lines 14-22). The network sales system utilizes an underlying software architecture, disclosed on page 11, lines 7-19 that comprises HTML, HTTP and URL's as mechanisms for transmitting documents within the network.

When communicating digital advertisements (FIGs. 3 and 6), an initial user inquiry 19 from the buyer computer results in an HTTP request 20 for a specific document with a specified URL, which also identifies the merchant computer. The merchant computer retrieves a document according to the URL and returns it to the buyer computer (page 13, lines 13-23). Under an alternate embodiment, the document is executed as a program originating from the merchant computer (page 13, lines 24 – page 14, line 8). On page 11, lines 7-19, the Specification provides:

The software architecture underlying the particular preferred embodiment is based upon the hypertext conventions of the World Wide Web. Appendix A describes the Hypertext Markup Language (HTML) document format ***used to represent digital advertisements***, Appendix B describes the HTML forms fill out support in Mosaic 2.0, Appendix C is a description of the Hypertext Transfer Protocol (HTTP) between buyer and merchant computers, and Appendix D describes how documents are named with Uniform Resource Locators (URLs) in the network of computers. A document is defined to be any type of digital data broadly construed, such as multimedia documents that include text, audio, and video, and documents that contain programs. (Page 16 of the Appeal Brief)

Appellant does not specifically point out which means correspond to which structural element(s) in the specification. For example, is Appellant asserting that an HTML document format used to represent digital advertisements is a structural limitation? The only mention of Internet transfer protocols in claim 1 includes the limitation "means for communicating a digital advertisement to a buyer computer over said network using Internet transfer protocols..." The fact the "network sales system utilizes an underlying software architecture, disclosed on page 11, lines 7-19 that comprises HTML, HTTP and URL's as mechanisms for transmitting documents within the network" is only relevant to possible software that may be used as part of the network sales system. It does not serve to limit the structural elements corresponding to the recited "means for communicating a digital advertisement...using Internet transfer protocols." The Examiner will not read in entire portions (some of which include multiple paragraphs) of the specification into each occurrence of means-plus-function language. Additionally, the Examiner maintains that, since the prior art addresses the recited functionality, the corresponding structure performing this functionality is *at the very least* an equivalent of Applicant's disclosed structure (please see MPEP § 2183).

Similarly, Appellant asserts the following regarding the recited "means for requesting, displaying and responding to digital advertising":

Also, the "means for requesting, displaying and responding to digital advertising" are supported in the specification, for example, on pages 11-13, and discloses buyer computers receiving and linking HTML forms or documents received from merchants over a packet-switched network. In the exemplary embodiments of FIGs. 2-3, the means at each buyer computer for requesting, displaying, and responding to digital advertisements is disclosed as

executable linking software that retrieves advertisements and displays them on a computer screen:

Figure 2 shows an overview screen that has been retrieved from a merchant computer by a buyer computer and displayed by the buyer computer. It includes links 1, 2, and 3 that when activated by a user cause the buyer's computer to take specified actions. In the case of link 1, the document shown in Figure 3 is retrieved from a merchant computer and displayed. In the case of link 2, a short audio segment is retrieved from a merchant computer and played. In the case of link 3, the query that can be entered into the query dialog box 4 is sent to a merchant 5 computer, and a document is retrieved from the merchant computer and displayed.

Figure 3 shows a document that contains three digital advertisements. The digital advertisements have been retrieved from the merchant computer after the 10 activation of link 3. (Page 17 of the Appeal Brief)

Appellant further submits that "Appellant has repeatedly pointed out the correlation of the recited means to the hardware and software structural elements, and provided arguments that were consistent with this correlation..." (Page 17 of the Appeal Brief) Again, a prior art equivalent of the means-plus-function limitations in question would only require structure (which may be programmed with software) to perform the recited functionality. The entire excerpt quoted on page 17 of the Appeal Brief will not be read into the claimed "means for requesting, displaying and responding to digital advertising." Since the prior art addresses the recited functionality, the corresponding

Art Unit: 3694

structure performing this functionality is *at the very least* an equivalent of Applicant's disclosed structure (please see MPEP § 2183).

Appellant argues that the Examiner has been inconsistent in her interpretation of the extent to which software would be considered as part of the overall structure (pages 17-18 of the Appeal Brief). While the Examiner submits that software *per se* is not a structural element, the Examiner concedes that computerized structure will typically require some implementation of software to make the computerized structure and electronic equivalents thereof capable of performing claimed functionality. Bush's structural elements must be programmed to perform Bush's disclosed functionality. What is not conceded by the Examiner is that all of Appellant's disclosed software details should be read into the means-plus-function limitations. For example, Appellant repeatedly cites HTML programming as an example of software that should be read in from the specification into the claimed means-plus-function language. However, the Examiner respectfully disagrees with Appellant's assertion. While claim 1, for example, recites "means for communicating...using Internet transfer protocols," the claim language does not make any reference to the use of HTML. HTML is not inherent to all Internet transfer protocols. For example, XML is another available language for programming web pages. Additionally, there is no web page required within the scope of the claims. Displaying a digital advertisement could be as simple as sending an e-mail with the advertisement. While some e-mails may be sent using HTML, many are sent using plain text or some other format. Regardless of the e-mail format, these e-



mails may be placed into an appropriate Internet transfer protocol (which may or may not involve HTML).

Appellant argues that “different functions are being employed by a different structure in the configuration of Bush, namely a video broadcasting system that transmits video menus to a television or video screen via RF carrier signals.” (Page 19 of the Appeal Brief) The Examiner submits that the claimed invention does not preclude a system that broadcasts video, as explained in more detail in the art rejection.

Regarding the Bush reference, “[e]ven if it is assumed that the loading of video data from the memory to the main CPU is ‘transmitting video,’ it is not being communicated to a buyer computer, and is certainly not being done over a packet-switched network, in which packets are routed between nodes over data links shared with other traffic.” (Page 20 of the Appeal Brief) It should be noted that the only express recitation of “packed-switched” is found in claim 23 and it is used as an identifier for the “means for communicating.” Nevertheless, all claims refer to the use of Internet transfer protocols and the Internet is understood to be an example of a packet-switched network. The Alantec reference was used in combination with Bush to address the recited use of “Internet transfer protocols.” In response to Appellant’s arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Regarding the transmission of video to a buyer computer, a computer is a programmable machine. Bush’s customer receives

advertisements through a TPS receiver which downloads information into its RAM (col. 3, lines 1-20). The TPS receiver can process customer menu selections as well as payment transactions (col. 3, lines 21-35). Even if the receiver does nothing more than format data for display and for transmission via a modem, the receiver has some processing capabilities in order to accomplish these tasks. As a matter of fact, various CPU functions are attributed to the TPS system (as seen in col. 4, line 49 through col. 5, line 24); therefore, the TPS receiver is interpreted as a buyer (or customer) computer.

Appellant argues, "The Office has, thus far, failed to reconcile how the use of a video interface converter which produces raw video signals, is a 'structure' that is the same or equivalent to the structure described in the specification which corresponds to the claimed means plus function elements. The use of a video interface in the present claims is wholly inapplicable." (Page 21 of the Appeal Brief) As discussed above, all of the details cited by Appellant from the specification will not be read into the means-plus-function language for the aforementioned reasons. The art rejection explains how the Bush-Alantec combination addresses the claimed invention.

On page 22 of the Appeal Brief, "Appellant also notes that claim 1 recites that the 'plurality of buyer computers and at least one merchant computer are ***interconnected*** by a communication network.' This means that, consistent with packet-switched communication, each of the buyer computers can communicate with the merchant computer *and with each other*." First, the Bush-Alantec combination addresses the use of the Internet as the communication medium of choice and the Internet is a packet-switched network; therefore, in response to Appellant's arguments against the

Art Unit: 3694

references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Second, the term “interconnected” does not require a *direct* connection between every single buyer and every single merchant. For example, if each buyer can communicate directly with the at least one merchant, then the buyers can be said to be interconnected to each other at least indirectly.

Appellant argues that, since Bush’s advertisements are video advertisements, there is nothing to execute in relation to the advertisement (page 22 of the Appeal Brief). The Examiner submits that the word “execute” is broad and can be as simple as “running” something or setting something in motion or play (such as an advertisement, which is disclosed by Bush). Conversely, beyond running or playing the digital advertisement, the claimed invention does not impart any additional executable software element within the digital advertisement; therefore, the digital advertisement disclosed in Bush is commensurate in scope with the claimed digital advertisement.

The Examiner would also like to note that, while Appellant states that claims 4 and 23 are allowable for the same reasons as claim 1, claims 4 and 23 are significantly broader in scope than claim 1.

Appellant’s arguments presented on pages 22-23 of the Appeal Brief center around the assertion that there would be no suggestion to modify Bush as stated in the art rejection. For example, Appellant points out that the proposed modifications would teach against Bush. However, the Examiner notes that the Appellant generally places

Art Unit: 3694

too much emphasis on the details of the preferred embodiments of Bush without considering the fair teachings of what the combination of the Bush and Alantec references would suggest, which is an improper analysis of the combination of references. Both Bush and Alantec discuss video distribution. Bush dates back as far as October 1, 1990 while Alantec was published almost three years later on August 16, 1993 and shows a progression in the art of video distribution. More specifically, Alantec discloses the use of IP (Internet protocol) multicast routing to distribute television and video (ALANTEC: ¶ 2). IP multicast routing is used to “build high-performance, low-cost networks” (ALANTEC: ¶ 4) and provide the further benefit of enabling one-to-many communications “without broadcasting the packet to every network device and degrading the performance of the entire network” (ALANTEC: ¶ 6). Alantec provides a benefit that is reasonably pertinent to Bush’s type of video distribution system. Furthermore, the Internet is a type of packet-switched network and Bush’s communications may be conducted over a packet-switched network. Consequently, Bush’s system is fully adaptable to functioning over the Internet; therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant’s invention to modify Bush to expressly communicate its digital advertisements to buyers over a network using Internet transfer protocols in order to upgrade Bush’s network with “high-performance, low-cost networks” (as suggested by ALANTEC: ¶ 4) and provide the further benefit of enabling one-to-many communications “without broadcasting the packet to every network device and degrading the performance of the entire network” (also suggested by ALANTEC: ¶ 6).

The underlying concepts of Bush's invention (e.g., distributing advertisements remotely to buyers so that the buyers can interact with the ads to make purchases) are not negatively affected by a conversion of Bush's disclosed networking features to be an environment that operates over the Internet. As a matter of fact, Alantec clearly describes an advancement in the art of video distribution; therefore, the incorporation of Alantec's Internet-based video distribution capabilities with Bush's older video distribution system is quite expected and obvious in light of the natural progression of the state of video distribution. The resulting advertising and purchasing functionality of a modified Bush is not destroyed, but instead enhanced by the ability to take advantage of Internet-based distribution, which yields "high-performance, low-cost networks" (as suggested by ALANTEC: ¶ 4) and provide the further benefit of enabling one-to-many communications "without broadcasting the packet to every network device and degrading the performance of the entire network" (also suggested by ALANTEC: ¶ 6).

In summary, Appellant's arguments are not persuasive.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Susanna M. Diaz  
Primary Examiner  
Art Unit 3694

Art Unit: 3694

Conferees:

  
James Trammell  
Supervisory Patent Examiner  
Art Unit 3694

  
Vincent Millin  
Appeal Conference Specialist  
Technology Center 3600